

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

WELLS FARGO EQUIPMENT FINANCE, INC.,

Plaintiff,

v.

INCHON LLC, et al.,

Defendants.

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Civil Case No. 05-5559 (FSH)

OPINION and ORDER

Date: October 2, 2007

HOCHBERG, District Judge

This matter having come before the Court upon Defendant Wells Fargo Equipment Finance's ("Wells Fargo") August 17, 2007 Motion for Summary Judgment on Counts 7 and 8 of Defendant's October 12, 2006 Amended Complaint against Defendant Strekalov; and the Court having considered the arguments of the parties on the papers pursuant to Fed. R. Civ. P. 78;¹ and

it appearing that, pursuant to Fed. R. Civ. P. 56(c), a motion for summary judgment will be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); and

it appearing that "summary judgment may be granted only if there exists no genuine issue of material fact that would permit a reasonable jury to find for the nonmoving party." Miller v. Indiana Hosp., 843 F.2d 139, 143 (3d Cir. 1988); and

¹ Default was entered against Defendant Inchon LLC on Counts 1-6 in this Court's September 11, 2007 order.

it appearing that Defendant Strekalov has submitted a sworn affidavit pursuant to this Court's September 11, 2007 order putting Defendant Strekalov on notice as to the requirements of Fed. R. Civ. P. 56(e) and permitting Defendant Strekalov an additional 20 days to meet those requirements; and

it appearing that Defendant Strekalov's affidavit raises a genuine issue of material fact with regard to the validity of the signatures on the Master Lease, Equipment Schedules, Guaranty, and Notice of Assignment; and

it appearing that Counts 7 and 8 are therefore unsuitable for summary judgment;

IT IS on this 2nd day of October, 2007,

ORDERED that Defendant's Motion for Summary Judgment on Counts 7 and 8 against Defendant Strekalov is **DENIED**; and it is further

ORDERED that the remaining parties shall proceed to court annexed arbitration pursuant to Local Rule 201.1.

/s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.